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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152387

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 26, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 31, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare for failing to verify a reported change that, if verified, could cause an increase in benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703  
By: Lashun Johnson  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was working at State Fair Park for part of the summer of 2013. Petitioner reported the beginning of employment as required.

3. On August 21, 2013 Petitioner reported that her employment had ended. On August 22, 2013 the agency requested verification that the employment had ended. It did not receive that and discontinued Petitioner's FoodShare effective October 1, 2013.
4. Petitioner was receiving \$180.00 per month of FoodShare for the months of July, August and September 2013.

### **DISCUSSION**

I am reversing this case closure. Petitioner was not required to report the end of employment. *FoodShare Wisconsin Handbook, (FSH), §6.1.1.2.* That she did so was essentially a request that her FoodShare increase because income decreased. As income is a mandatory verification item and as the agency is required to act on changes it becomes aware of it was certainly appropriate to seek verification of the end of Petitioner's employment. *See FSH, §§ 1.2.4.1 and 6.1.1.2.* The remedy here for lack of that verification is, however, not to close the case but to not increase benefits. Analogously, if a person reports a medical expense but fails to verify it does not close the case, rather the expense is not included in the allotment calculation. *See Example 1 at FSH, §1.2.4.8.*

### **CONCLUSIONS OF LAW**

That Petitioner's FoodShare case was incorrectly discontinued for failure to verify.

**THEREFORE, it is**

### **ORDERED**

That this matter is remanded to the agency with instructions to take the steps necessary to restore Petitioner's FoodShare effective October 1, 2013. This must be done within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

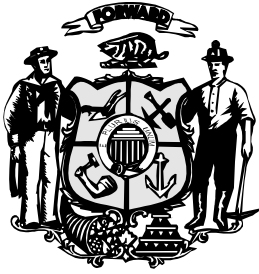
Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of November, 2013

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 21, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability